

REMARKS

The present application was filed on November 20, 2003 with claims 1-19. Claims 11 and 19 have been previously canceled. Claims 1-10 and 12-18 remain pending, including independent claims 1, 17 and 18.

Claims 1-3, 5-10, 12 and 15-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,526,392 (hereinafter "Dietrich") in view of U.S. Patent Application Publication No. 2003/0088457 (hereinafter "Keil").

Claims 4, 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over references including Dietrich and Keil.

Claim 1 includes a limitation directed to controlling a usage load level of the one or more computing resources by modulating quantities of products offered to the one or more users of the one or more computing resources. Claim 1 specifies that these products comprise combinations of price levels and service levels and that the combinations are determined by (i) computing a set of prices and (ii) computing a set of service levels to offer to the one or more users at each one of the prices in the set of prices.

In order to compute a set of service levels to offer at each one of the prices in the set of prices, it is required that the set of prices already be computed. In other words, claim 1 requires that the set of prices be computed before the set of service levels to offer at each of the prices in the set of prices. As described in the specification at, for example, page 7, lines 1-17, this is an important distinction from the yield management techniques disclosed by the prior art, and illustrative embodiments are able to better account for the heterogeneous nature of computing resources.

Applicants respectfully submit that neither Dietrich nor Keil teach or suggest an arrangement which includes products of the type recited in claim 1, much less modulating quantities of such products. Dietrich discloses a technique which first determines "a profile of the services to be contracted to one or more new customers," and then determines "a range of prices to be considered for the services to be contracted." See Dietrich at, for example, column 1, line 56, to column 2, line 27. Similarly, Keil at paragraph [0010] discloses a system in which allows a "manufacturer to choose product configurations, as well as production amounts and prices for each product configuration."

Note that in both Dietrich and Keil, the services/product configurations are determined first, and then prices for those services/product configurations are determined. Thus, not only do Dietrich and Keil fail to teach or suggest the limitations of claim 1, but both references teach directly away therefrom. Independent claims 17 and 18 include limitations similar to those heretofore discussed with reference to claim 1, and are thus similarly patentable.

Applicants also assert that dependent claims 2-10 and 12-16 are patentable over the reference not only for the reasons given above, but also because one or more of said dependent claims recite separately patentable subject matter in their own right. Moreover, the other references cited by the Examiner in rejecting certain of the dependent claims fail to remedy the above-identified deficiencies of Dietrich and Keil relative to the limitations of claim 1.

In view of the above, Applicants believe that the present application is in condition for allowance, and respectfully request withdrawal of the §103(a) rejections.

Respectfully submitted,



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